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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/555,906 06/02/00 DRIEU

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EXAMINER

SRIVASTAVA, K

ART UNIT

PAPER NUMBER

1651

DATE MAILED:

07/17/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trad marks**

# Office Action Summary

Application No.

09/555,906

Applicant(s)

DRIEU, KATY

Examiner

Dr. Kailash C. Srivastava

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-8 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Applicants' amendment filed 05/03/2001 (paper Number 7) is acknowledged and entered. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 2-3, 7-8, 10 and 12-13 have been amended.
3. Claims 2-8 and 10-13 are currently pending and are examined on the merits.
4. Pursuant to the arguments presented and amendments made in applicants' amendment dated 05/03/2001, the examiner hereby withdraws rejections made under 35 U.S.C. § 112 ¶2 to Claims 2-3, 6-8 and 11-13.
5. Contrary to Applicant's observation, the Examiner has clearly stated at Page 2, Line 2 of Office Action of November 6, 2000 (Paper Number 5) that Claims 1 and 9 have been cancelled and Claims 2-8 and 10-13 are presented for examination.

### ***Claim Rejections Under 35 U.S.C. § 103***

6. Claims 2-8 and 10-13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hsia et al (U.S. Patent 5,976,548) and Kleijnen et al (Lancet, 340: 1136-1139, 1992), in view of Remington's Pharmaceutical Sciences (Philadelphia College of pharmacy and Science, 1980) and Park et al (U.S. Patent 5,541,183), for the reasons of record set forth at pages 3-8 of the Office action of November 6, 2000 (Paper # 5).

In response to this rejection, applicants argue that the cited prior art references that the examiner has cited in the above referenced Office action in no way suggest that the *Ginkgo biloba* extract has been applied to aid patients addicted to substance abuse "to relieve the symptoms thereof". Also argues the applicant that, "there is no suggestion to combine the prior art reference as the Examiner has done" in order to obtain the applicant's claimed invention.

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Applicant's arguments regarding the prior art references have been fully considered but are not persuasive. The claims remain obvious to an artisan in the art for the reasons stated below.

Applicant's traversal regarding the prior art references, especially the fact that the primary references, per-se, do not teach treatment of withdrawal symptoms with *Ginkgo biloba* extract is not found persuasive because:

- Claim 11 recites, "easing" any withdrawal symptoms, and
- the Remington's reference clearly discloses that the withdrawal symptoms in an individual recovering from substance abuse are the same ones that are treated with *Ginkgo biloba* extract.

Therefore, an artisan of ordinary skill would be motivated to modify the teachings of Hsia et al., in view of cited secondary references with a reasonable expectation to obtain what has been claimed in the instant invention.

The reasoning provided in the previous paragraph would also be applicable with regard to the rejections to Claims 6-8 and 10-13 under 35 U.S.C. § 103(a) as obvious over Hsia et al., Kleijnan et al., and Remington's in view of Park et al. Therefore, Claims 2-8 and 10-13 remain obvious under 35 U.S.C. § 103(a) for the reasons of record set forth at pages 5-8 of the Office Action dated November 6, 2000 (Paper number 6).

7. No claims are allowed.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE

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SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRES LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kailash C. Srivastava whose telephone number is (703) 605-1196. The examiner can normally be reached on Monday to Thursday, and every other Friday from 8:00A.M. to 5:30 P.M. (Eastern Standard or Daylight Saving Time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn, can be reached on (703) 308-4743 Monday through Thursday. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3014.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Kailash C. Srivastava, Ph.D.  
Patent Examiner  
Art Unit 1651  
(703) 605-1196

KCS  
July 16, 2001

  
FRANCISCO PRATS  
PRIMARY EXAMINER